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C O N F I D E N T I A L DAMASCUS 000210

SIPDIS

PARIS FOR WALLER, LONDON FOR TSOU

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SUBJECT: HABIB SALEH SENTENCED TO THREE YEARS IN PRISON

REF: DAMASCUS 00165

Classified By: CDA Maura Connelly for reasons 1.4 (b) and (d)

¶1. (SBU) SUMMARY: Internet-dissident Habib Saleh was sentenced to three years in prison on March 15 by the Second Criminal Court in Damascus on the charges of weakening national sentiment. French, Canadian, Swedish, Norwegian, Swiss and Danish Embassy representatives were also present. The highest level of diplomatic representation was the Canadian Embassy's First Secretary. END SUMMARY.

BACKGROUND

¶2. (SBU) Habib Saleh was taken into detention on May 7, 2008 (not October 16, as previously reported, reftel) in Tartus for writings deemed threateningly subversive to the country. This was Saleh's fifth arrest since 1982 for political activities. He was accused of "inciting civil and religious dissent," "weakening national feeling," and "spreading false information."

¶3. (C) Saleh, known for his high rhetorical style, defended himself in the Second Criminal Court on March 1 with a lengthy argument pre-planned with his lawyer Muhanad al-Hasani (strictly protect), who is also head of the Syrian Organization for Human Rights--Swasiah. In his defense, Saleh asserted his innocence on all charges. Hasani told us he had feared the court would penalize Saleh were he to argue his case in a highly intellectual style, so he and Saleh worked out the details of the defense's argument in advance of the trial. Under Syrian law, Hasani informed us, either the defendant or the defense counsel may argue before the bar (but not both) during the defense phase of a trial. Though Saleh requested to speak in his own defense, Hasani was present before the judge throughout the trial.

¶4. (SBU) Speaking from a barred cage at the back of the small courtroom, Saleh argued the charges against him remained unsubstantiated by the court and that since he was one man, and "only a writer," it was inconceivable he should be accused of trying to instigate sectarian violence in Syria. Saleh pointed out the charge was more appropriate for a group like "al-Qaeda." The thrust of his writings, he claimed, was to promote people's right to freedom. He asked the court directly how he, as an Alawi, could be accused of being sectarian when he had sold his own home and donated the money to victims in Iraq and Palestine. The judge interrupted Saleh throughout his defense statement, warning him against inserting political opinions into his argument. When Saleh finished, the judge asked whether he would plead for mercy from the court. His lawyer, Hasani, asked the court to show

mercy, but Saleh interjected he wished not for mercy, but for justice. He added, "if this court is truly independent, it will find me innocent."

THE VERDICT

¶15. (SBU) In a hearing that lasted approximately five minutes on March 15, the Second Criminal Court of Damascus sentenced Saleh to five years in prison under articles 285 and 286 of the Syria penal code and then immediately commuted it to three years. Article 285 stipulates that in Syria, whoever does anything aimed at weakening national morale, or inciting racist or sectarian feelings during a time of war, will be punished with imprisonment. Article 286 states that anyone who knowingly spreads false news aimed at achieving the ends articulated in article 285 will be punished with imprisonment.

¶16. (C) Swedish DCM Martina Quick (strictly protect) told us on March 18 that the EU was considering issuing a statement on the Saleh verdict, though this information was still very close-hold. She asked whether the U.S. would do the same. When we told her no formal decision had been made at this point to do so, she expressed surprise, saying that in the past we had been more active than the EU in issuances of this sort. We responded that we were a bit surprised with the EU move under consideration, as the EU approach generally veered away from public statements on these cases. We explained that Washington had not ruled out making a statement, but it was weighing the timing, especially since there were other high-profile sentencing hearings scheduled for this month and it would be impractical to release statements after each one.

¶17. (C) COMMENT: Saleh's sentence was not unexpected; most activists expected somewhere between three and five years. We note Saleh's trial, unlike the trial of the Damascus Declaration National Council members and the current Meshaal Tammo hearings, was not attended by many civil society activists. We have heard the reason for this might be because Saleh is from outside of Damascus and does not enjoy much of a constituency in the human rights community. Tammo is not from Damascus either, but Kurdish solidarity apparently produces larger crowds. We will follow-up with our EU counterparts to find out whether they will go forward with a statement. If the EU confirms it will issue a statement, Post recommends a statement in which we join our concerns on human rights to theirs. In the absence of an EU statement, Post recommends revisiting whether a public statement is warranted after Meshaal Tammo's sentencing on March 25. END COMMENT.
CONNELLY